

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LOVELESS J. ROSS and U.S. POSTAL SERVICE,  
POST OFFICE, Los Angeles, CA

*Docket No. 00-1477; Submitted on the Record;  
Issued January 8, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, PRISCILLA ANNE SCHWAB,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant has met her burden of proof in establishing that her bilateral ankle condition was caused by employment factors.

On August 24, 1999 appellant, then a 54-year-old distribution operations supervisor, filed an occupational disease claim, alleging that the deterioration of tendons in her ankles was caused by continuous walking on the floor of the employing establishment.

On September 7, 1999 the Office of Workers' Compensation Programs requested that appellant submit further factual and medical evidence to substantiate her claim. In response, appellant submitted a hand-written letter addressing the Office's factual questions but did not submit any medical records.

By decision dated November 4, 1999, the Office found that appellant failed to establish fact of injury. The Office stated that appellant failed to provide any medical evidence to support her claim.<sup>1</sup>

The Board finds that appellant did not meet her burden of proof to establish that the deteriorating condition of her ankles was caused by her employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim,<sup>3</sup> including the fact that the

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<sup>1</sup> The Office did receive a podiatrist's treatment notes and a report of a magnetic resonance imaging scan from appellant, after the Office's final decision. The Board may not consider these documents on appeal because the review of the case shall be limited to the evidence in the record before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Daniel R. Hickman*, 34 ECAB 1220 (1983); 20 C.F.R. § 10.110.

individual is an “employee of the United States” within the meaning of the Act,<sup>4</sup> that the claim was timely filed within the applicable time limitation period of the Act,<sup>5</sup> that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>6</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>7</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>8</sup>

The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>9</sup>

Although appellant did submit factual evidence to support her claim that she engaged in continuous walking during her employment, she did not submit any medical evidence to establish a diagnosis concerning her ankles or a causal relationship between employment factors and her condition. At the time the Office denied appellant’s claim, November 4, 1999, the record did not contain any medical evidence.

Thus, the Board finds that the evidence submitted by appellant is insufficient to meet her burden of proof that her alleged condition was caused by employment factors.

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<sup>4</sup> *James A. Lynch*, 32 ECAB 216 (1980), 5 U.S.C. § 8101(1).

<sup>5</sup> 5 U.S.C. § 8122.

<sup>6</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>7</sup> *Id.*

<sup>8</sup> *Ruth Seuell*, 48 ECAB 188 (1996); *Vicky L. Hannis*, 48 ECAB 538 (1997).

<sup>9</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

The decision of the Office of Workers' Compensation Programs dated November 4, 1999 is hereby affirmed.<sup>10</sup>

Dated, Washington, DC  
January 8, 2001

Michael J. Walsh  
Chairman

Priscilla Anne Schwab  
Alternate Member

Valerie D. Evans-Harrell  
Alternate Member

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<sup>10</sup> Subsequent to the issuance of the Office's November 4, 1999 decision., appellant submitted additional evidence, which may be submitted with a request for reconsideration to the Office. The Board may not review evidence that was not before the Office when it rendered its decision.